

Appl. No. 09/853,160  
Contingent Amdt. dated January 31, 2005  
Reply to Office Action of July 30, 2004

## **REMARKS**

This response is presented as at Contingent Amendment because of PTO's substantial re-writing of the rules pertaining to appeals, which re-writes occurred after the notice of appeal was filed herein, after the Appeal Brief was filed herein, and after the Examiner issued the July 30, 2004 paper. In the latter instance, there was inadequate time left between the normal extendible two-month period for a Reply Brief and the arguable trumping of that established practice with amended part 4 of 37 CFR (Section 41.41).

### **Contingent Request for Interview**

The undersigned notes the long-standing request for an interview with the Examiner. Attention is respectfully invited to the March 24, 2004 Amendment and the request therein made, as an example.

### **Drawing Objection - Should be immediately withdrawn**

The objection to the drawings is not understood. The Examiner is invited to the June 7, 2002 Amendment. That Amendment introduced reference numeral 4. If the Examiner had something else in mind, please telephone the undersigned since applicants are otherwise flummoxed by the objection.

### **Formality Rejection**

The formality objection to claim rests on a mis-apprehension of the claimed invention for the reasons stated in the concurrently filed Reply Brief and Contingent Request to Treat Same as a Response. The objection is moot in any event if this Contingent Amendment is entered.

**Novel, Unobvious Elected Claimed Inventions**

Claims 1 and 2 define unobvious inventions over Goto et al. in view of Sato et al. for reasons stated in the May 20, 2004 Appeal Brief and as stated in the concurrently filed Reply Brief and Contingent Request to Treat Same as a Response.

A speaker grille-integrated foamed thermoplastic resin molding for automotive interior comprising a base portion and a speaker grilled having a plurality of opening holes wherein at least the base portion has a foamed layer and the foamed layer in the base portion has a density  $\rho$  of not greater than  $0.6 \text{ g/cm}^3$  and an average expansion ratio of the speaker grille is 1 to 1.3 times, wherein the speaker grille is formed in one piece with the base portion from the same material as the base portion so as to be surrounded by the base portion.

*Arguendo*, it appears that the Office Action relies on Goto et al. as follows:

- (1) Goto et al. discloses a door trim panel (Figure 7) containing a speaker grille with a plurality of holes (Figure 7, #452);
- (2) As can be seen in Figures 7 and 8, the resin molding contains a base portion (Figure 8, #30) in which the speaker grille is formed and surrounded by the base portion (Figure 7, #452 and 30); and
- (3) The base portion is formed by polypropylene foam (column 6, lines 28-32 and lines 36-38).

The Examiner has opined that the only difference between the claimed product and the door trim panel is that in the claimed product the foamed layer in the base portion having a density of not greater than  $0.6 \text{ g/cm}^3$  and an average expansion ratio of the speaker grille is 1 to 1.3 times.

Appl. No. 09/853,160  
Contingent Amdt. dated January 31, 2005  
Reply to Office Action of July 30, 2004

The Examiner is mistaken. For instance, especially as to item (3) in her analysis of Goto et al., the Examiner apparently has the view, based on the description in column 6, lines 28-32 and lines 36-38, that the door trim panel of Goto et al. has a base portion which is formed by a polypropylene foam. However, the description of column 6, lines 28-32, is an explanation about a skin material employed. Goto et al. discloses that the skin material has an inner layer 202 made from polypropylene resin. Goto et al. does not teach a base portion having a foamed layer.

Now merely because separate elements are allegedly separately mentioned in prior art, even if the Examiner's thesis is correct, which it is not, there would have been no motivation for a person who is of ordinary skill in the art to modify the Goto et al. reference to teach what it doesn't disclose and combine the non-existent teaching with the Sato et al. reference. Such evidence is not seen in this record.

Applicants also refer to and rely upon the Remarks presented in their September 4, 2003 Amendment and their Appeal Brief filed herein on May 20, 2004.

Appl. No. 09/853,160  
Contingent Amdt. dated January 31, 2005  
Reply to Office Action of July 30, 2004

**Conclusion**

Applicants have endeavored in good faith to address all matters in their concurrently filed Reply Brief and in this Contingent Amendment.

If the Examiner considers an issue as outstanding, please promptly telephone Applicants' undersigned legal representative to schedule a personal interview.

Applicants respectfully submit that their application merits an allowance and therefore earnestly solicit a Notice of Allowance.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By:

  
Kendrew H. Colton  
Registration No. 30,368

**Official Correspondence to Customer No. 42798**

Fitch, Even, Tabin & Flannery  
1801 K Street, N.W. - Suite 401L  
Washington, D.C. 20006-1201

Telephone No. (202) 419-7000  
Facsimile No. (202) 419-7007